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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,299	09/06/2000	Jean-Francois Moyersoen	204,797	9580

7590 05/12/2003

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EXAMINER	
WASYLCHAK, STEVEN R	
ART UNIT	PAPER NUMBER
3624	12

DATE MAILED: 05/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/656,299	Applicant(s) MOYERSOEN, JEAN-FRANCOIS	
	Examiner Steven R. Wasylchak	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 February 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3-5 and 8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3-5 and 8* is/are rejected.

7)☒ Claim(s) *3-5 and 8* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. Claims 3-5 and 8 are withdrawn from allowance; claims 1,2,6,7 and 9 are cancelled; claims 3-5, and 8 are pending.

Claim Objections

2. Claims 3-5 and 8 are objected to because of the following informalities: the lower case alphabetical lettering is duplicated in each claim; e.g., there are two "a's", two "b's", two "c's", etc. in each of the claims. Appropriate correction is required.

3. Claim 3 a. is objected to because of the following informality: claim 3 a. at the bottom of page 3 is duplicated again at the top of page 4. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 3-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendkos (US 6,453,299).

Claim 3, Wendkos teaches a method of selling and purchasing at least one object of purchase over a computer network, said method comprising the following steps:

utilizing a software program on a computer of a purchaser to search for and find a site on said computer network offering said at least one object of purchase;/ abstract; fig 28(2810)

browsing through an on-line catalog at said site to find said at least one object of purchase each of said at least one object of purchase having attributed to it a probability of obtaining said each of said at least one object of purchase at no cost to said purchaser; / col 1, L 22-57; col 7, L 21-33; col 11, L 3 to col 12, L 7

selecting said at least one object of purchases abstract; col 11, L 3 to col 12, L 7

confirming an order for said at least one object is of purchase / col 15, L 12-25; col 16, L 19-26

determining whether payment must be made for said each of said at least one object of purchase, and/ col 12, L 35-41

paying for only those objects of purchase from said at least one object of purchase for which payment was determined to be required in step e wherein said step of determining whether payment must be made for said of said at least one object of purchase comprises the following steps:/ col 15, L 42-55

offering said each of said at least one object of purchase to said purchaser at no cost if said random number is equal to a third predetermined value; and / col 11, L 3 to col 12, L 7

Wendkos fails to teach the steps of generating a random number for at least one object of purchase and requiring payment for said each of said at least one object of purchase if said random number is not equal to said third predetermined value.

However, Wendkos discloses the steps of generating a random number between a first predetermined value and a second predetermined value for a customer (col 11, L 3 to col 12, L 7), and crediting the customer for said each of said at least one object of purchase if said random number is not equal to said third predetermined value.(col 15, L 43-55 where the number of credits would not go up if one did not win and thus imply a purchase).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to modify the teachings of Wendkos to include the steps of generating a random number for at least one object of purchase, and requiring

payment for said each of said at least one object of purchase if said random number is not equal to said third predetermined value because it greatly improves the efficiency of the system by monitoring the product's inventory and having a system that is user friendly.

Claim 4, Wendkos teaches a method of selling and purchasing at least one object of purchase over a computer network, said method comprising the following steps:

utilizing a software program on a computer of a purchaser to search for and find a site on said computer network offering said at least one object of purchase;/ abstract; fig 28(2810)

browsing through an on-line catalog at said site to find said at least one object of purchase each of said at least one object of purchase having attributed to it a probability of obtaining said each of said at least one object of purchase at no cost to said purchaser,/ col 1, L 22-57; col 7, L 21-33; col 11, L 3 to col 12, L 7

selecting said at least one object of purchase;/ abstract; col 11, L 3 to col 12, L 7 d.

confirming an order for said at least one object of purchase/ col 15, L 12-25; col 16, L 19-26

determining whether payment must be made for said each of said at least one object of purchase; and/ col 12, L 35-41; col 16, L 19-26

paying for only those objects of purchase from said at least one object of purchase for which payment was determined to be required in step e,

wherein said step of determining whether payment must be made for said each of one, said at least one object of purchase comprises the following steps:/ col 15, L 42-55

determining a series of whole numbers for said each of said at least one object of purchase after a first event selected from the group of events consisting of

said site is ready to sell for the first time said each of said at least one object of purchase; and/ col 11, L 3-62 and reasoning for object of purchase

a first predetermined number of said each of said at least one object of purchase have been ordered after a second event selected from the group of events consisting of:

said site is ready to sell for the first time said each of said at least one object of purchase and/ col 11, L 3-62

offering said each of said at least one object of purchase to said purchaser at no cost if the number of said each of said at least one object of purchase ordered since step a. was last performed equal to one of said series of whole numbers; and/ col 11, L 3-62

Wendkos fails to teach the integral part of the quotient of said first predetermined number divided by a second predetermined number and

requiring payment for said each of said a least one object of purchase if said number of said each of said at least one object of purchase ordered since step a. was last performed is not equal to any of said series of whole numbers.

However, Wendkos teaches determining a series of whole numbers as specified in this step a., said series of whole numbers being between one and said first predetermined number, said series of whole numbers having as many numbers (col 11, L 3 to col 12, L 7). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to modify he teachings of Wendkos to include the steps of generating a integral part of the quotient of said first predetermined number divided by a second predetermined number and requiring payment for said each of said a least one object of purchase if said number of said each of said at least one object of purchase ordered since step a. was last performed is not equal to any of said series of whole numbers because it is analogous to the use of the modulus in cryptography for protecting the algorithm from customers and for having a system that is user friendly.

Claim 5, Wendkos teaches a method of selling and purchase using at least one object of purchase over a computer network, said method comprising the following steps:

utilizing a software program on a computer of a purchaser to search for and find a site on said computer network offering said at least one object of purchase;/ abstract; fig 28(2810)

browsing through an on-line catalog at said site to find said at least one object of purchase, each of said at least one object of purchase having attributed to it a probability of obtaining said each of said at least one object of purchase at no cost to said purchaser; / col 1, L 22-57; col 7, L 21-33; col 11, L 3 to col 12, L 7

selecting said at least one object of purchase;/ abstract; col 11, L 3 to col 12, L 7

confirming an order for said at least one object of purchasing:/ col 15, L 12-25; col 16, L 19-26

determining whether payment must be made for said each of said at least one object of purchase, and/ col 15, L 12-25

paying for only those objects of purchase from said at least one object of purchase for which payment was determined to be required in step e,/ col 12, L 28-41; col 15, L 42-55

wherein said step of determining whether payment must be made for said each of said at least one object of purchase comprises the following steps:

determining a series or whole numbers for said each of said at least one object of purchase after a first event selected from the group of events consisting of:

said site is ready to sell for the first time said each of said at least one object of purchase; and/ col 11, L 3 to col 12, L 7

a first predetermined number of said each of said at least one object of purchase have been ordered after a second event, selected from the group of events consisting of:

said site is ready to sell for the first time said each of said at least one object of purchase: and/ col 11, L 3 to col 12, L 7

Wendkos fails to teach the integral part of the quotient of said first predetermined number divided by a second predetermined number . However, Wendkos teaches determining a series of whole numbers as specified in this step a., said series of whole numbers being between one and said first predetermined number (col 11, L 3 to col 12, L 7). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to modify he teachings of Wendkos to include the steps of generating a integral part of the quotient of said first predetermined number divided by a second predetermined number and requiring payment for said each of said a least one object of purchase if said number of said each of said at least one object of purchase ordered since step a. was last performed is not equal to any of said series of whole numbers because it is analogous to the use of the modulus arithmetic in cryptography for protecting the algorithm from customers.

Wendkos fails to teach said series of whole numbers which is greater than a fourth number of said each of said at least one object of purchase actually ordered since step a. was last performed, said generation of said random number being performed for said each of said at least one object of purchase. However, Wendkos does teach generating random numbers between zero and a first number of said each of said at least one object of purchase that must be ordered in the future for a second number of said each of said at least one object of purchase ordered since

step a. was last performed to equal at least said series of whole numbers./ col 11, L 3 to col 12, L 7).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to modify the teachings of Wendkos to include the steps of a second number of said each of said at least one of said series of whole numbers which is greater than that of a fourth number of said each of said at least one object of purchase actually ordered since step a. was last performed for the advantage of flexibility in the choice of algorithms of varying degrees of complexity to limit the number of winners and thus being able to adjust both inventory or availability of prizes and allowing for greater security from customers deciphering the algorithm by using "back to back" algorithms.

Wendkos does not teach said random number is equal to zero. However, Wendkos does teach offering said each of said at least one object of purchase to said purchaser at no cost (col 11, L 3 to col 12, L 7). It would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to modify the teachings of Wendkos to include said random number is equal to zero for a modular and efficient algorithm that is based on a single digit outcome such as zero which in turn can be used to match a concurrent or subsequent algorithm having the remainder of zero in modulus arithmetic.

Wendkos does not teach requiring payment for said each of said at least one object of purchase is said random number is not equal to zero. However, Wendkos does teach a random number is not equal to zero (col 11, L 3 to col 12, L 7) and

crediting the customer for said each of said at least one object of purchase if said random number is not equal to said to said predetermined value / col 15, L 43-55). It would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to modify the teachings of Wendkos to include payment for said each of said at least one object of purchase is said random number is not equal to zero because it greatly improves the efficiency of the system by monitoring the product's inventory and having a system that is user friendly.

Claim 8, Wendkos teaches a system for selling at least one object of purchase over a computer network, said system comprising:

an on-line catalog;/ col 1, L 22-57

software for determining whether a particular one of said at least one object of purchase shall be offered free to a purchaser,/ abstract; fig 28(2810)

wherein said software comprises:

a program to produce a user interface allowing a merchant to select one of at least one algorithm for determining whether a particular one of said at least one object of purchase shall be offered free to said purchaser, said selection being with, regard to one object of purchase in said on-line catalog and said at last one algorithm comprising

a regular cycle algorithm, a constant probability algorithm, a pre-defined list algorithm, and a dynamic probability algorithms/ col 11, L 3 to col 12, L 7

said at least one algorithm; and a program to produce a user interface displaying to a merchant the particular one(s) of said one object of purchase in said on-line catalog offered free to purchasers./ col 1, L 22-57; col 2, L 22-37; col 11, L 3-62 ; col 12, L 27-41; col 16, L 41-50; fig 1(100-140)

Wendkos fails to teach a virtual shopping basket. Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement the feature of a virtual shopping basket for the advantage of creating a more efficient way of shopping by aggregating goods in one location for a single checkout.

This action is NON-FINAL. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak

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HANI M. KAZIMI
PRIMARY EXAMINER